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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/071,787 | 02/07/2002 | Ivar S. Helgason | 2345.2034-000 | 3611 |

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EXAMINER

HUYNH, BA

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2179

DATE MAILED: 03/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/071,787

Applicant(s)

HELGASON ET AL.

Examiner

Ba Huynh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-141 is/are pending in the application.
- 4a) Of the above claim(s) See Continuation Sheet is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,18-20,39-47,67,71-73,75,89-91,111-119 and 137-141 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>7/02 and 5/04</u> . | 6) <input type="checkbox"/> Other: _____ |

Continuation of Disposition of Claims: Claims withdrawn from consideration are 3,5-17,21-38,48-66,68-70,74,76-88,92-110 and 120-136.

DETAILED ACTION

1. Applicant's election without traverse of Group VII (claims 2, 4, 20, 39, 47, 72-73, 75, 91, and 111-119) in the reply filed on 11/12/04 is acknowledged.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1, 2, 4, 137-139 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 1, 2, 4 recite a medical advice expert system. The "system" as recited can be implemented in software alone as explicitly disclosed by the applicant on page 17, lines 7-9. The claims fail to meet the statutory requirement of 35 USC 101 for not being tangible.
3. Claims 67-70, 140, 141 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 67-70 recite a computer program product intended to be used on a touch screen apparatus. The computer program product as defined in the specification, page 17, lines 9-15, as program codes embodied in optical, wired or wireless communication transmission medium. The claims fail to meet the statutory requirement of 35 USC 101 for not being tangible.
4. Claims 89, 91, 111-119 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The language of the claims raises a question as to whether the claim are directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete

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useful, and tangible result to form the basis of statutory subject matter under 35 USC 101.

Furthermore, the inventions as recited are not being tangible since it can be implemented in software alone as explicitly disclosed by the applicant on page 17, lines 7-9.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 2, 4, 18-20, 39-45, 47, 67, 71-73, 75, 89-91, 111-117, 119, 137-141 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent Application Publication 2004/0078215 (Dahlin et al).

- As for claims 1, 71, 137, 140: Dahlin et al (herein Dahlin) teach a computer implemented medical advice expert system and corresponding method, comprising the means/steps for:

displaying a graphical user interface that presents to a user coded medical information (terminology having specific meaning in medical. Coding is also inherently included in Dahlin's teaching of EMR, par. 0152) in at least one logical hierarchy (0061, 0062, fig. 3), and that accepts selections of the presented information made by the user (0061),

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generating an electronic medical record responsive to the graphical user interface and recording user selections into an electronic medical record (0130, 0141, 0151, 0156, 0179).

- As for claims 2, 72: The logical hierarchy is organized by physiological system (0061-0062, 0142, fig. 3).

- As for claims 4, 73: The graphical user interface comprises an image of a body, from which the user can select a body part for examination (0061, 0142, figure 3).

- As for claim 74: The logical hierarchy is organized by type of examination (0142).

- As for claim 75: The graphical user interface comprises image of a body from which the user can select a physiological method for examination (figs 3, 12).

- As for claim 138: The system further includes time entry means for entering patient history (0128, 0141)

- As for claims 18, 67, 89, 139, 141: Dahlin et al (herein Dahlin) teach a computer implemented patient history and examination support system and corresponding method, comprising the means/steps:

a processor, an input device connected to the processor, a display connected to the processor (fig. 23),

means for displaying a graphical user interface which assists a user in an examination of a patient and accepts medical data entered by the user (fig. 3), the medical data

automatically corresponding to medical coding system codes (0057, 0091, 0130, 0151, 0179), the graphical user interface comprising:

an image of a body (fig. 3) from which the user can select a body part for examination,

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an examination method selection control from which the user can select an examination method (e.g., selecting a task, 0057; selecting a procedure, 0072; selecting a method of examination, 0117),

a first set of controls indicating locations to which a selected examination method can be applied (0061)

a second set of user selectable controls based on the selected method and the selected body part (0063-0064), each second set control corresponding to a medical coding system code for a medical observation and containing descriptive label (0179, fig. 4), user selection of a second set control being medical data entered by the user (0151, 0156).

- As for claims 19, 90: The system includes a storage for storing codes associated with the entered medical data, the stored codes being associated with the patient (0163, 0164, 0166).

- As for claims 20, 91: The body image is updated according to user selection (0063-0064).

- As for claims 39, 111: The body image comprises image of a whole body (fig. 3).

- As for claims 40, 112: The body image comprises image of a portion of a body (0060).

- As for claims 41, 113: The portion of a body displayed in the body image depends on a medical discipline associated with the examination (0063-0065).

- As for claims 42, 114: The graphical user interface may initially display a portion of a body (0060, 0063).

- As for claims 43, 115: The portion of a body displayed in the body image depends on a previous selection made by the user (0063-0064).

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- As for claims 44, 116: The body image is a human body (fig. 3).
- As for claims 45, 117: The body image is according to gender (0064).
- As for claims 47, 119: The body image is according to age (0064).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 46, 118 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dahlin et al.

- As for claims 46, 118: Although Dahlin teaches displaying the body image according to gender and age, and storing patient data with race, Dahlin fails to clearly teach displaying the body image according to race. However, in light of Dahlin, it would have been obvious to one of skill in the art, at the time the invention was made, to implement the displaying of the body image according race, since the body structure are different in different races. Motivation of the implementation is for having a body image according to the patient race.

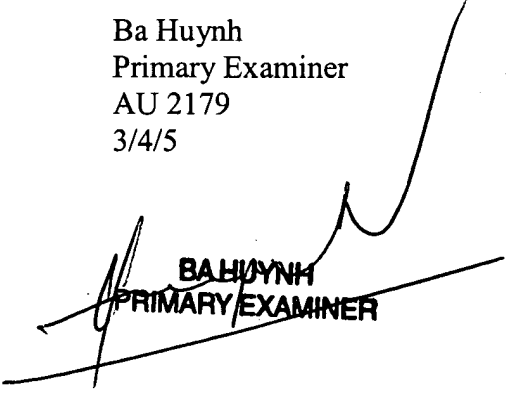
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ba Huynh whose telephone number is (571) 272-4138. The examiner can normally be reached on Mon - Fri.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Herndon can be reached on (703) 308-5186. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ba Huynh
Primary Examiner
AU 2179
3/4/5


BA HUYNH
PRIMARY EXAMINER